

IN RE: PETITION FOR VARIANCE
(13 Cockpit Street)
15th Election District
6th Council District
Mark Bocklage
Legal Owner

Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2020-0086-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Mark Bocklage for property located at 13 Cockpit Street. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulation (“BCZR”) § 1B02.3.C.1 to permit a principal building having a side of building to lot line setback of 5 ft. in lieu of the required 10 ft., a lot width of 49 ft. in lieu of the required 55 ft. and a lot size of 4,900 sq. ft. in lieu of the required 6,000 sq. ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”) dated June 8, 2020. That agency did not oppose the requested relief.

Petitioner Mark Bocklage, appeared in support of the requested relief. Jennifer R. Busse, Esq. appeared on behalf of the Petitioner. There were no protestants in attendance.

The subject property is approximately 4900 square feet and is zoned DR 5.5. Ms. Busse explained that the property is part of the Aero Acres subdivision that was laid out during World

War II to house workers at Martin Air Corporation. The lots are uniformly narrow and non-conforming with the current zoning regulations which require a minimum lot width of 55 feet. Mr. Bocklage acquired the property from a relative in 2018 and razed the existing structure. He then began building the subject residence on the same footprint and therefore did not believe he needed a building permit. A stop work order and citation were issued and the citation was held in abeyance pending resolution of this variance request. Ms. Busse stated that all the surrounding neighbors are very supportive of Mr. Bocklage's rehabilitation of the property.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity is what necessitates the requested variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

As noted above, the subject property is unique because it is part of a subdivision of similar non-conforming lots that were created during war time. I find that the Petitioner would suffer hardship and practical difficulty if the variance relief was denied because he has already undertaken substantial investment and construction. I further find that the variance is within the spirit and intent of the BCZR and that it can be granted without causing harm to the general health, safety and welfare. This is evidenced by the support from the neighbors and from the DOP, who noted that under the Essex Middle River Community Conservation plan, rehabilitation of older neighborhoods is encouraged, and therefore, "development plans are reviewed under less rigid criteria."

THEREFORE, IT IS ORDERED, this 24th day of **September, 2020** by the Administrative Law Judge for Baltimore County, that the Petition for Variance from, BCZR § 1B02.3C.1 to permit

a principal building having a side of building to lot line setback of 5 ft. in lieu of the required 10 ft., a lot width of 49 ft. in lieu of the required 55 ft. and a lot size of 4,900 sq. ft. in lieu of the required 6,000 sq. ft. and is hereby GRANTED.

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____

PAUL M. MAYHEW
Managing Administrative Law Judge for
Baltimore County

PMM:dlm